## Cumulative Table of Cases Connecticut Appellate Reports Volume 183

## (Replaces Prior Cumulative Table)

Abrams v. PH Architects, LLC.  Contracts; professional negligence; claim that trial court improperly failed to enforce provisions of contracts with defendant architect firm and defendant general contractor pertaining to how change orders and payment requisitions were to be initiated and processed; whether failure to follow change order procedures was raised in complaint as basis for plaintiff's count alleging breach of construction contract; whether trial court's finding that no material breach of architectual contract occurred while architect firm was still employed on project was clearly erroneous; claim that general contractor breached contract by failing to construct wall and fence in particular location and with certain specifications; whether trial court properly found that specifications and location of wall and fence were modified by subsequent agreement of parties at plaintiff's request; whether trial court's finding that architectural contract did not require architect firm to provide contract administration services was clearly erroneous; whether plaintiff demonstrated that architect firm had breached professional standard of care applicable to architects; credibility of expert witnesses; whether there was evidentiary basis for trial court's decision to reject testimony of plaintiff's expert; claim that trial court's findings regarding punch list that identified certain items of work that general contractor allegedly had left incomplete or in need of repair were clearly	777
erroneous; claim that trial court erroneously calculated portion of retainage that plaintiff was permitted to keep for incomplete or defective work; whether trial court properly determined there was no credible evidence or economic rationale	
that supported taking corrective actions proposed in punch list.	
Bank of America, N.A. v. Kydes	479
Foreclosure; standing; failure to timely answer or object to requests for admission pursuant to rule of practice (§ 13-23 [a]); claim that trial court improperly relied on defendant's admissions as basis for finding that original plaintiff had standing to bring this action and for rendering summary judgment; claim that trial court erred in failing to hold evidentiary hearing on challenge to original	
plaintiff's standing.	
Barker v. All Roofs by Dominic	612
Workers' compensation; whether Compensation Review Board properly affirmed decision of Workers' Compensation Commissioner determining that defendant city was plaintiff's principal pursuant to statute (§ 31-291); claim that § 31-291 was not intended to apply to governmental entities because such entities are not engaged in any trade or business, as required under § 31-291 for principal employer liability to attach; whether intermediate appellate court was bound by precedent from our Supreme Court; claim that establishment of Second Injury Fund abrogated case law from our Supreme Court establishing that municipality can be held liable as principal employer of uninsured subcontractor's employee; claim that board erred in affirming commissioner's finding that city was plaintiff's principal employer because roofing work that plaintiff performed for city was not part or process of city's trade or business.	
Clark v. Commissioner of Motor Vehicles	426
Administrative appeal; suspension of motor vehicle operator's and commercial driver's licenses by defendant Commissioner of Motor Vehicles; claim that trial court incorrectly determined that there was substantial evidence in record to support finding that there was probable cause that plaintiff operated his motor vehicle while under influence of liquor within two hours preceding his failed blood alcohol content tests; whether inferences underlying commissioner's conclusion that plaintiff was operating his vehicle after certain time were supported by compelling circumstantial evidence in record; whether trial court abused its discretion in denying motion to reargue or for reconsideration; claim that plaintiff received ineffective assistance from counsel at administrative hearing resulting in failure to present additional relevant evidence.	

Conroy v. Idlibi	460
Corneroli v. Kutz	401
DAB Three, LLC v. LandAmerica Financial Group, Inc	307
Davis v. Property Owners Assn. at Moodus Lake Shores, Inc	690
Dupigney v. Commissioner of Correction	852
Edwards v. Commissioner of Correction	838
Emeritus Senior Living v. Lepore	23

804

175

392

Gaskin v. Commissioner of Correction . . . . . . Habeas corpus; whether habeas court abused its discretion in denying petition for certification to appeal from judgment denying habeas petition; whether appellate courts of this state have not yet addressed issues of whether petitioner procedurally  $defaults\ claim\ when\ his\ appellate\ counsel\ with draws\ from\ representation\ without$ having investigated new information outside record that could develop due process claim or what constitutes cause and prejudice should such default exist; whether petitioner procedurally defaulted due process claim; whether trial record was inadequate for petitioner to have raised claim on direct appeal; whether petitioner established cause and prejudice even if he had procedurally defaulted his claim; whether habeas court improperly determined that petitioner did not establish cause where factual basis underlying due process claim was not reasonably available to petitioner until after his appellate counsel moved to withdraw from representation; whether petitioner established prejudice to overcome any procedural default where testimony of witness who cooperated with state was material to petitioner's conviction of murder and conspiracy to commit murder, petitioner's trial counsel was unable to get witness to admit to jury that witness had some promise from state regarding his cooperation, and prosecutor sharpened prejudice that resulted from witness' false testimony in closing argument to jury; whether petitioner's due process rights were violated by prosecutor's use of false testimony from witness who cooperated with state and prosecutor's suggestion to jury that witness who cooperated with state had no interest in outcome of petitioner's trial; whether witness' false testimony was material to petitioner's conviction; whether there was reasonable likelihood that witness' false testimony or prosecutor's reliance on it in closing argument could have affected verdict of jury; whether disclosure of agreement between state and cooperating witness needed to be made only to petitioner or whether disclosure also had to be made to jury; whether petitioner was harmed by lack of disclosure of agreement to jury where credibility of witness who cooperated with state was important, state's case was almost entirely dependent on witness' testimony and evidence of state's promise to witness bore on whether witness had anything to gain by testifying; claim that conviction of tampering with witness was buoyed by witness' false testimony and petitioner's conviction of murder and conspiracy to commit murder; whether jury reasonably could have found that petitioner attempted to induce witness to withhold testimony; whether tampering with witness could be established in absence of conviction of other crimes; whether false testimony by witness who cooperated with state was material to charge of tampering with witness.

regulation (42 C.F.R. § 431.244 [f] [2013]); whether administrative appeal from denial of Medicaid benefits should have been sustained.	
Hilario's Truck Center, LLC v. Rinaldi	597
Contracts; breach of implied contract; third-party beneficiary; whether plaintiff company that provided automobile towing services to defendant insured motorist had standing as third-party beneficiary to bring direct breach of contract action against defendant insurance company that provided automobile liability coverage to motorist; whether parties to insurance contract intended that insurance company should assume direct obligation to plaintiff where policy was devoid of any reference to plaintiff or to entities like plaintiff that might provide automobile recovery, towing and storage services to insured, whether contract language that obligated insurance company to pay for property damage evinced intent to create	
direct obligation to plaintiff that expended funds on behalf of insured to mitigate property damage suffered by others; whether denying plaintiff third-party beneficiary status undermined sound public policy.	400
Hum v. Silvester.  Injunction; whether trial court correctly determined that defendants had prescriptive easement over shared driveway; whether evidence supported court's finding that use of driveway by defendants and their predecessor in title was open, visible, and continuous for more than fifteen years under claim of right; doctrine of tacking, discussed.	489
In re Briana G	724
Termination of parental rights; whether trial court prematurely determined that respondent father had failed to achieve sufficient degree of personal rehabilitation necessary to encourage belief that he could assume responsible position in children's lives within reasonable period of time as required by statute (§ 17a-112 [j] [3] [B] [i]); claim that Department of Children and Families had not made sufficient efforts to reunify father with children; whether trial court abused its discretion in admitting into evidence transcripts of certain text messages extracted from cell phone of children's mother following her death; whether chain of custody was sufficiently established.	124
In re James H. (See In re Katherine H.)	320
In re Katherine H	320
In re Zoey H	327
Motion to revoke commitment; unpreserved claim that trial court violated respondent father's right to procedural due process when it denied motion to revoke commitment of minor child to Commissioner of Children and Families without first conducting hearing to determine father's fitness as parent; whether statute (§ 46b-129 [m]) and rule of practice (§ 35a-14A) pertaining to revocation of commitment of minor child strike appropriate balance between commissioner's and father's interests, and comply with procedural due process requirements; unpreserved claim that § 46b-129 (m), as applied to respondent father, infringed on father's right to substantive due process; claim that father was entitled to presumption of fitness as parent and that court improperly applied burden to father to prove that cause for commitment no longer existed.  Jenzack Partners, LLC v. Stoneridge Associates, LLC	128
	128
Foreclosure; standing; alleged breach of personal guarantee secured by mortgage on unrelated real property arising out of construction loan agreement; claim that plaintiff lacked standing to foreclose on mortgage on real property because individual defendant's limited guarantee was not specifically assigned from original lender to plaintiff; whether assignment of note operated as assignment of any secondary obligations attached to it; whether circumstances surrounding execution of assignment evidenced intent to assign limited guarantee; whether trial court properly concluded that plaintiff had established amount of debt due on note; whether testimony concerning starting balance used in computation of debt in exhibit was inadmissible hearsay where witness had no personal knowledge concerning starting balance; whether starting balance used in computation of debt was admissible under business records exception to rule against hearsay pursuant to statute (§ 52-180) when there was no evidence in record regarding lender's business records or its duty to report accurate starting balance to plaintiff	
and starting balance received by plaintiff, rather than made, in ordinary course of	

implicated amount owed under note; claim that trial court, in support of claim for attorney's fees, improperly admitted certain documents that listed nonparty as party entitled to fees.	
Kargul v. Smith  Summary process; landlord and tenant; notice to quit; withdrawal of summary process complaint; claim that plaintiffs terminated lease agreement between parties by serving initial notice to quit possession in first action, and thereby deprived trial court of jurisdiction to entertain second summary process action commenced by plaintiffs; whether continuation of lease agreement between parties was restored when plaintiffs withdrew first action against defendants prior to commencement of hearing on merits.	78
Martowska v. White	770
Magee Avenue, LLC v. Lima Ceramic Tile, LLC	575
Magsig v. Magsig	182
Mercado v. Commissioner of Correction	556
Mikucka v. St. Lucian's Residence, Inc  Workers' compensation; appeal from decision of Compensation Review Board affirming decision of Workers' Compensation Commissioner; claim that commissioner violated plaintiff's right to due process by not permitting plaintiff to present evidence at formal hearing in support of claim pursuant to Osterlund v. State (135 Conn. 498); whether commissioner's decision prejudicially affected plaintiff's substantive rights; whether commissioner's decision to bifurcate plaintiff's Osterlund claim protected defendants' due process rights; reviewability of	147

claim that commissioner erred in determining that plaintiff was not totally disabled pursuant to Osterlund.	
National Waste Associates, LLC v. Scharf	734
Riccio v. Riccio	823
Speer v. Dept. of Agriculture.  Administrative appeal, appeal of animal disposal orders pursuant to statute (§ 22-538); claim that trial court abused its discretion in denying motion to open judgment of nonsuit; whether plaintiff established that good cause of action existed at time judgment of nonsuit was rendered and that plaintiff was prevented from prosecuting action by mistake, accident or other reasonable cause; whether trial court, in denying motion to open, improperly relied solely on plaintiff's failure to be physically present for pretrial conference pursuant to rule of practice pertaining to pretrial conferences (§ 14-13); whether motion to open satisfied requirements of statute (§ 52-212) governing motions to open and applicable rule of practice (§ 17-43).	298
St. Juste v. Commissioner of Correction	471
Starble v. Inland Wetlands Commission	280
State v. Ayala	590
State v. Baldwin	167

modify and not allowing defendant to delay participating in sex offender treatment until after conclusion of pending habeas matter.	
State v. Dubuisson	62
Strangulation in second degree; whether evidence was sufficient for jury to have found beyond reasonable doubt that defendant committed strangulation in second degree; whether jury reasonably and logically could have concluded that defendant put his hand around victim's neck with intent to render her unable to breathe	
and, while acting under that intent, squeezed her neck with his fingers, thereby rendering her unable to breathe; whether trial court abused its discretion by	
admitting into evidence, under spontaneous utterance exception to hearsay rule, testimony regarding victim's statements to friend during telephone conversation; claim that because there was break in time between when defendant strangled	
victim and victim called friend, statements were not spontaneous.	_
State v. Fletcher	1
relief that could be afforded to defendant, who had completed sentence for violating	
probation; whether appeal qualified for exception to mootness doctrine; whether	
there was reasonable possibility that, in event that defendant were to face sentenc- ing court in future, court's determination revoking his probation and sentencing	
him to period of incarceration could subject him to prejudicial collateral consequences; whether there was reasonable possibility that presence of defendant's sentence for violation of probation could subject him to prejudicial collateral	
consequences affecting his employment opportunities and his standing in com-	
munity generally; whether there was practical relief that could be afforded to	
defendant; unpreserved claim that trial court improperly relied on fact that was not part of record when it found that defendant had tried to elude law enforcement	
in their efforts to serve violation of probation warrant; whether information on	
which court relied satisfied requisite standard of reliability; whether defendant	
demonstrated that inference drawn by court was unreasonable or unjustifiable.  State v. Gerald A	82
Sexual assault in first degree; risk of injury to child; whether evidence was sufficient	02
to support conviction of sexual assault in first degree; claim that state failed to	
prove that defendant engaged in sexual intercourse with victim within meaning of applicable statute (§ 53a-65 [2]); whether trial court abused its discretion when	
it admitted certain uncharged misconduct testimony pertaining to defendant's	
alleged prior physical violence toward victim and her family; whether probative	
value of uncharged misconduct evidence was outweighed by its prejudicial effect;	
whether trial court properly permitted two cases against defendant to be tried jointly; whether evidence in each case would have been cross admissible as prior	
misconduct in other case; claim that defendant's conduct in each case was not	
similar; claim that prejudicial effect of evidence outweighed its probative value;	
whether trial court abused its discretion when it denied defendant's motion to make opening statement to jury; whether trial court's ruling was harmful.	
State v. Harris	865
Criminal possession of firearm; unpreserved claim that trial court violated defend-	
ant's constitutional rights to trial by jury, to fair trial and to presumption of innocence; claim that court's finding of guilt and its sentence were impermissibly	
based on its finding that defendant had committed murder of victim; whether	
evidence was insufficient to support conviction; whether there was sufficient	
evidence presented that defendant had physical possession or control of, or exer- cised dominion over, firearm.	
State v. Jackson	623
Murder; conspiracy to commit murder; assault in first degree; whether trial court	
abused its discretion in denying motion to preclude state's expert witness from testifying about cell site location information; whether trial court abused its	
discretion in denying request for six week continuance so defendant could consult	
with expert to rebut testimony of state's expert witness; whether defendant was	
prejudiced by denial of request for continuance; whether denial of request for continuance was harmful to defendant; unpreserved evidentiary claim that court	
improperly permitted state's expert witness to testify without first having con-	
ducted hearing as to witness' qualifications and reliability of his methodology;	
claim that rule enunciated in State v. Edwards (325 Conn. 97) that police officer must be qualified as expert witness before testifying about cell phone data applied	
retroactively to unpreserved challenges to evidentiary rulings; whether trial court	
abused its discretion in precluding defendant from presenting testimony by	

investigator to rebut testimony of state's expert witness; claim that defendant was deprived of right to present defense when trial court prevented him from introducing certain evidence; claim that trial court abused its discretion in concluding that proffered evidence of gun was too remote in time to be relevant to show lack of identity of defendant as one of shooters; whether trial court abused its discretion in admitting consciousness of guilt evidence concerning defendant's failure to appear in court on unrelated matters subsequent to shootings; whether evidence of failure to appear in court was more prejudicial than probative.	
State v. Jerzy G.  Pretrial program of accelerated rehabilitation; sexual assault in fourth degree; motion to dismiss; whether trial court abused its discretion in finding that defendant had not successfully completed probation; whether trial court properly denied motion to dismiss criminal charge; whether trial court abused its discretion in terminating defendant's probation.	757
State v. Morice W	32
State v. Morris	181
State v. Petitpas	442
State v. Rogers	669
State v. Smith	54
State v. Taveras	354

listener would have been highly likely to interpret statement as serious expression of intent to harm or assault staff member.  Tala E. H. v. Syed I	224
Civil protection order; unpreserved claim that manner in which trial court conducted hearing on continuance of protective order constituted judicial misconduct and bias; whether defendant demonstrated that trial court exhibited bias against him and was guilty of judicial misconduct that affected integrity of proceeding and denied him fair trial; whether trial court misapprehend facts or abuse its discretion by continuing protective order for six months; whether defendant's actions constituted stalking under applicable statute (§ 46b-15 [a]); claim that trial court's consideration of evidence of defendant's placement of certain security cameras and tracking device was improper; whether trial court's erroneous finding that defendant went to home of plaintiff's aunt was harmless.	224
Taylor v. Taylor	830
Child visitation; whether trial court's finding that plaintiff had not established that denial of visitation with minor child of his niece would cause real and significant harm to the minor child was clearly erroneous; whether trial court properly denied petition for visitation.	
Webster Bank, N.A. v. Frasca	249
Foreclosure; motion for deficiency judgment; whether trial court committed plain error in failing to consider certain property valuations in plaintiff's appraisal report; whether plaintiff presented sufficient evidence for court to determine value of property on date title vested; whether plaintiff's appraisal report was unreliable; whether plaintiff demonstrated that claimed error was both so clear and harmful that failure to reverse judgment would result in manifest injustice; whether trial court committed plain error in imposing preponderance of evidence standard of proof under statute (§ 49-14) instead of probable cause standard of proof; whether trial court committed plain error in making certain comments on record during hearing; whether certain of trial court's comments demonstrated hostility toward plaintiff or were manifestation of bias; whether trial court's remarks throughout hearing referencing knowledge derived from extrajudicial sources were relied on by court in analytical decision-making process in denying motion for deficiency judgment; whether trial court abused its discretion in admitting and relying on certain evidence submitted during hearing; whether defendant presented ample evidence for court to determine that plaintiff failed to satisfy burden of demonstrating fair market value of property as of date title vested in plaintiff; whether court's decision to find no credible valuation on basis of plaintiff's failure to meet burden was within reasonable bounds of discretion; whether trial court abused discretion in denying motion for protective order in response to notice of deposition.	
Wells Fargo Bank, N.A. v. Lorson	200
Foreclosure; whether trial court's determination that plaintiff proved its prima facie case was clearly erroneous; claim that plaintiff had burden to prove compliance with United States Department of Housing and Urban Development regulations that pertained to home mortgage foreclosure actions as condition precedent to bringing foreclosure action; whether defendants had affirmative duty to plead noncompliance with regulations as special defense; whether trial court correctly determined that defendants failed to prove their special defense of equitable estoppel; claim that trial court's finding that defendants failed to prove special defense of unclean hands was clearly erroneous.	
Wells Fargo Bank, N.A. v. Vollenweider (Memorandum Decision)	901 452
Zilkha v. Zilkha	452
discretion by precluding defendant from presenting certain evidence regarding background of guardian ad litem when trial court determined that such evidence was irrelevant to determining amount and apportionment of guardian's fees pursuant to statute (§ 46b-62); whether trial court correctly exercised its discre-	
tion by implementing sliding scale model developed by Judicial Branch pursuant	
to § 46b-62 and adjusting award upward on basis of delineated factors.	